

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANDRE WAUL,

Plaintiff,

vs

9:05-CV-24

LESTER N. WRIGHT, M.D.; JOHN E. CUNNINGHAM,
JR., M.D.; STEVEN VanBUREN, Regional Health
Service Adm.; RODD KOCH, MICHAEL ANUSZEWSKI,
JOHN IAN VITTO, DANNY PRECANIN, and VINCENT
MENYA, Each Physical Therapists; TIMOTHY WHALEN,
M.D., MITCHELL RUBINOVICH, M.D.; COREY,
Corrections Sergeant; and BAILEY, Corrections Officer,

Defendants.

APPEARANCES:

OF COUNSEL:

ANDRE WAUL
78-A-2915
Fishkill Correctional
Box 1245
Beacon, NY 12508

HON. ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Defendant
Department of Law
The Capitol
Albany, NY 12224

BRIDGET ERIN HOLOHAN, ESQ.
Asst. Attorney General

DAVID N. HURD
United States District Judge

ORDER

Plaintiff, Andre Waul, brought this civil rights action pursuant to 42 U.S.C.

§ 1983. In a Report Recommendation dated February 16, 2006, the Honorable David R.

Homer, United States Magistrate Judge, recommended that defendants' motion to dismiss

be granted as to defendant Wright, and should be dismissed from this case; denied in all other respects; and that the amended complaint be dismissed without prejudice as to defendant Vitto. The parties have filed objections to the Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which the defendants have objected remainder of the Report-Recommendation is accepted and adopted. See 28 U.S.C. 636(b)(1).

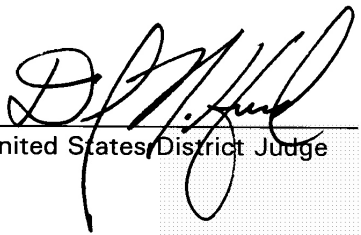
Accordingly, it is

ORDERED that

1. The defendants' motion to dismiss is GRANTED as to defendant Wright, and defendant Wright is DISMISSED from this case;
2. The defendants' motion to dismiss is DENIED in all other respects; and
3. The amended complaint is DISMISSED without prejudice as to defendant Vitto.

IT IS SO ORDERED.

Dated: June 16, 2006
Utica, New York.


United States District Judge